

STATE OF MAINE  
KENNEBEC, ss.

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. CV-18-51

MAINE SENATE	)	
	)	
	)	<b>ORDER ON THE COMMITTEE FOR</b>
Plaintiff,	)	<b>RANKED - CHOICE VOTING, LUCAS</b>
v.	)	<b>ST. CLAIR, JIM BOYLE, MARK DION,</b>
	)	<b>MARK EVES, SEAN FAIRCLOTH,</b>
MATTHEW DUNLAP, as MAINE	)	<b>DIANE RUSSELL, BETSY SWEET, and</b>
SECRETARY OF STATE	)	<b>BEN CHIPMAN'S MOTION TO</b>
	)	<b>INTERVENE</b>
Defendant.	)	

Before the Court is a Motion to Intervene brought by the Committee for Ranked-Choice Voting, Lucas St. Clair, Jim Boyle, Mark Dion, Mark Eves, Sean Faircloth, Diane Russell, Betsy Sweet, and Ben Chipman. They are the Plaintiffs if a related matter, CV-18-24, *The Committee for Ranked Choice Voting, et al. v. Matthew Dunlap as Secretary of State*. They are represented in both matters by Attorney James Monteleone and Attorney Michael Bosse. In the above-captioned matter, Plaintiff Maine Senate is represented by Attorney Timothy Woodcock and Defendant Secretary of State Matthew Dunlap is represented by Assistant Attorney General Phyllis Gardiner. The Maine Senate and the Secretary of State may be submitting a Report to the Maine Supreme Court under Maine Rule of Appellate Procedure 24 if they are able to agree upon the questions and record in the next few days. The Maine Senate opposes the Motion to Intervene and the Secretary of State agrees to it.

The Court has considered the arguments of counsel, and for the reasons set out below GRANTS the Motion.

Intervention as a matter of right may be granted when:

the applicant claims an interest relating to the property or transaction which is the subject of the action and the applicant is so situated that the disposition of the action may as a practical matter impair or impede the applicant's ability to protect that interest, unless the applicant's interest is adequately represented by existing parties.

M.R. Civ. P. 24(a)(2)

In this case, the questions before the Court, which may shortly be presented for consideration by the Law Court, directly speak to the voting method and processes to be followed for the June 12, 2018 election. The prospective Intervenors include candidates in that election. The Court is persuaded that the candidates have a vested interest in the election process, and that any decision by the Court in this action or by the Law Court may "as a practical matter impair or impede the [moving party's] ability to protect that interest".

The Senate opposes intervention, arguing that the interests of the Secretary of State and the party moving to intervene are sufficiently similar that the moving party's interests are adequately represented in the current action without the granting of intervention. The Court disagrees. Unlike the Secretary of State, whose interest lies in the orderly execution of whichever voting process is used in the election, and who has sought clarification as to what law should be followed, the moving party seeks implementation of a process of ranked-choice voting which was approved by the citizens of Maine in the November 2016 election.

In this case, the Maine Senate seems to be arguing that the system of ranked-choice voting approved by the voters, and the manner that the Secretary of State has attempted to implement it, violate certain provisions of the Maine Constitution.<sup>1</sup> The prospective Intervenors

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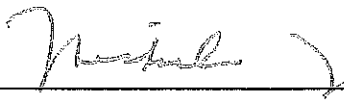
<sup>1</sup> This is the second time that Maine Senate has filed a court proceeding regarding the constitutionality of ranked-choice voting. It is not clear to the Court at this stage of the proceedings why at least some of the constitutional

insist that use of rank-choice voting in primary and federal elections do not violate the Maine Constitution. Both assert – but for very different reasons – that the Secretary of State is not following Maine statutory and constitutional provisions in planning for and financing the upcoming June 2018 election. The Court finds that the prospective Intervenor's interests are not adequately represented by the Secretary of State. They remain legal adversaries, despite the agreement they were able to reach on one issue generated by the litigation in CV-18-24, namely whether Section 723(1) of Title 21-A was impliedly repealed by the people of Maine when they voted to approve rank-choice voting. The Court therefore GRANTS the Motion to Intervene.

The Clerk is directed to incorporate this Order into the docket by reference in accordance with M.R. Civ. P. 79(a).

DATE:

7/9/18

  
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Michaela Murphy  
Justice, Superior Court

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questions now being raised were not presented in the previous proceeding which sought Opinions of the Justices of the Maine Supreme Judicial Court in 2016. See, *Opinion of the Justices*, 2017 ME 100.